

REMARKS

Reconsideration of the pending application is respectfully requested in view of the following observations.

1. In the claims

Claim 1 is amended to incorporate the subject matter of claim 3. Support for this amendatory language can be found at least in paragraphs [0031]-[0034].

Claim 3 has been cancelled without prejudice or disclaimer.

The claims are now considered to be placed in condition for allowance.

No new matter is introduced via the amendment to the claims.

Entry of the amendment to the claims is kindly requested.

2. Rejection of claims 1, 3-5, 7-9, and 15 under 35 USC 103(a) over US publication 2003/057276 (*Appalucci*) and US patent 5,729,717 (*Tamada*)

In view of the amendment to claim 1, it is submitted that the claims are in condition for allowance. Reconsideration of the rejection is respectfully requested in view of the amendment to the claims and the following observations.

Amended claim 1 claims a contactless data carrier with an antenna and a chip and specifies that the chip has at least one storage area that is freely readable and at least one storage area that is only readable after an authentication of the data carrier and the reading device. Amended claim 1 also adds that the storage area requiring authentication contains at least one first data record and the freely readable storage area has at least one second data record. The second data record is clearly allocated to the first data record and is derivable from the first data record.

The *Appalucci* publication discloses a reader that reads a second identifier at about the same time as reading the primary identifier of the item (see paragraph [0020]). A comparator then compares the first label with the second label using information in a database to determine if the same product is identified by each label (see paragraph [0029]). The Examiner acknowledges that the *Appalucci* publication fails to teach the storage areas of the chip.

The *Tamada* patent is relied on for the teaching of the storage areas.

The *Tamada* patent teaches an IC card with two memories. The first memory (24) is used to store a control program for the CPU and data and is divided into zones. The second memory is used as a zone access controller (22) for memory (24) and stores a password and access conditions for each zone of memory (24) (see col. 2, lines 26-37). The IC card has three access conditions based on the person or terminal accessing the IC card or password verification.

The proposed combination of *Appalucci* and *Tamada* fail to teach or suggest all of the features of claim 1.

First, the *Appalucci* publication does not teach storage areas of a chip, and the *Tamada* patent does not teach that the freely readable storage area has at least one second data record, which is clearly allocated to the first data record and is derivable from the first data record which is stored in the storage area that requires authentication. The *Tamada* patent does not teach or suggest specifically allocating a data record in the zone access controller to a specific data record in the memory. Nor does the *Tamada* patent teach or suggest that any records are derived from other records.

Moreover, the password cannot be interpreted as the second data record in the freely readable storage area. The password is entered into a reading device by the user without regard to whether this reading device is allowed access to the specific zone of the memory since the password flag D and terminal flag B are separate access conditions (see col. 5, lines 1-10 and Table 3) and the password is user-specific (see col. 3, lines 34-35). The password is also stored in the zone access controller (22).

The password is in no way based on the data in the respective zone since the password is merely used to verify the user. Once the password entered by the user matches the password stored in the zone access controller and all other conditions are met, access is granted to the respective memory zone. There is no active step of deriving the password from any data in the memory (24). Thus, the password is not derivable from the data in the respective memory zone as required by claim 1.

Moreover, since the password is user-specific, the password is not used in the authentication of terminal and is used only for the authentication of the user. In contrast, the required authentication in the claimed invention is between the reading

device and the data carrier. The password is also not allocated to a specific data record as required by claim 1 since the password is assigned to a zone in the memory which contains multiple data records (see col. 3 lines 29-35).

Thus, the proposed combination of *Appalucci* and *Tamada* does not teach or suggest the inventive feature of claim 1 of the storage area, which is readable only after an authentication of the data carrier and the reading device, has at least one first data record and the freely readable storage area has at least one second data record, which is clearly allocated to the first data record and is derivable from the first data record.

Next, the proposed combination of *Appalucci* and *Tamada* does not teach or suggest that the zone access controller memory is freely readable memory. The *Tamada* patent does not explicitly disclose that the memory is freely readable, but a skilled person would not want a password to be stored in a freely readable area. By storing a password in a freely readable area, the usefulness of requiring a password would be eliminated. To a skilled person, user passwords stored in the zone access controller memory in *Tamada* would only be readable by the CPU and the terminal, which has already been granted access to the zone access controller. Therefore, the zone access controller would not be freely readable.

Lastly, this invention ensures deliberate use of a contactless data carrier using the interconnected features of a freely readable storage area, an authentication required storage area, the first data record in the authentication required storage area, and a second data record allocated to and derivable from the first data area. A skilled person would only put these features together if the skilled person had a specific motivation to do so. Because of how these features interact with each other, a skilled person cannot simply piece together a freely readable storage area and a storage area that is only readable after authentication and achieve a solution of preventing unintended readings by third parties of specific records (see Specification, paragraphs [005] and [006]). Moreover, a skilled person would not be motivated from the teachings of *Appalucci* or *Tamada* to associate a data record with the record from which it is derived.

Accordingly, the proposed combination of *Appalucci* and *Tamada* fail to teach or suggest all of the inventive features of claim 1.

Moreover, claims 4-5, 7-9, and 15 are likewise in condition for allowance in view of their dependency from claim 1 and their individually recited features.

Withdrawal of the rejection of the claims in view of the prior art is kindly requested.

3. Rejection of claims 6 and 12 under 35 USC 103(a) over US publication 2003/057276 (*Appalucci*), US patent 5,729,717 (*Tamada*), and US patent 5,874,724 (*Cato*)

Claims 6 and 12 are dependent from claim 1 and are likewise in condition for allowance for the reasons above in view of their dependency from claim 1 and their individually recited features. *Cato* does not correct the deficiencies of *Appaluci* or *Tamada*, as discussed above.

Accordingly, claims 6 and 12 are patentable at least on the basis of their dependency from claim 1.

Withdrawal of the rejection is kindly requested.

4. Rejection of claims 10, 11, and 13 under 35 USC 103(a) over US publication 2003/057276 (*Appalucci*), US patent 5,729,717 (*Tamada*), and US patent 5,590,038 (*Pitroda*)

Claims 10, 11, and 13 are dependent from claim 1 and are likewise in condition for allowance for the reasons above in view of their dependency from claim 1 and their individually recited features. *Pitroda* does not correct the deficiencies of *Appaluci* or *Tamada*, as discussed above.

Accordingly, claims 10, 11, and 13 are patentable at least on the basis of their dependency from claim 1.

Withdrawal of the rejection is kindly requested.

5. Rejection of claim 14 under 35 USC 103(a) over US publication 2003/057276 (Appalucci), US patent 5,729,717 (Tamada), and US publication 2005/0184150 (Welte)

Claim 14 is dependent from claim 1 and is likewise in condition for allowance for the reasons above in view of its dependency from claim 1 and its individually recited features. *Welte* does not correct the deficiencies of *Appaluci* or *Tamada*, as discussed above

Accordingly, claim 14 is patentable at least on the basis of its dependency from claim 1.

Withdrawal of the rejection is kindly requested.

6. Allowable Subject Matter

The Applicant thanks the Examiner for allowing claims 16-22 and 24-33.

7. Conclusion

As a result of the amendment to the claims, and further in view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that every pending claim in the present application be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicant's attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Respectfully submitted,

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